

EARL KREMILLER

IBLA 81-543

Decided May 27, 1981

Appeal from the decision of the California State Office, Bureau of Land Management, declaring mining claim CA MC 57784 abandoned and void.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Mining Claims: Assessment Work

Evidence of assessment work must be delivered to and received by the proper Bureau of Land Management office by the due date in order to be filed timely. Depositing a document in the mails does not constitute filing.

3. Notice: Generally -- Regulations: Generally -- Statutes
All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Earl Kremiller, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Earl Kremiller has appealed the decision of the California State Office, Bureau of Land Management (BLM), dated March 26, 1981, declaring the Parker Placer Association mining claim, 1/ CA MC 57784, abandoned and void for failure to file timely evidence of annual assessment work or a notice of intention to hold the claim on or before December 30, 1980. BLM received appellant's proof of labor on January 2, 1981.

In his statement of reasons, appellant argues that, over the 8-year period that he has owned this claim, submissions reflecting a postmark of the due date have always been adequate and in this instance his filing was postmarked December 30, 1980. He indicates that he received BLM's 1980 assessment reminder notice but did not understand whether he was required to file evidence of assessment work every year. He wrote to BLM on December 12, 1980, asking for clarification. When he had not received an answer by December 30, he mailed his proof of labor.

[1, 2, 3] Section 314(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim located prior to October 21, 1976, to file evidence of assessment work for the claim with BLM within the 3-year period following that date and prior to December 31 of each year thereafter. The corresponding Departmental regulation 43 CFR 3833.2-1(a) reads:

(a) The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, whichever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

Failure to so file is considered conclusively to constitute abandonment of a claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4.

BLM regulations clearly state that depositing a document in the mails does not constitute filing. 43 CFR 1821.2-2(f). See also 43 CFR 3833.1-2. The fact that other Federal agencies have different procedures or that appellant may not have understood the filing requirements

1/ The Parker Placer Association claim was located on June 24, 1960, in sec. 14, T. 2 N., R. 3 E., San Bernardino meridian.

does not excuse him from compliance. Mascot Silver-Lead Mines, Inc., 54 IBLA 121 (1981). Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). This Board has no authority to excuse lack of compliance with the statute or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981); Glen J. McCrorey, 46 IBLA 355 (1980).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

James L. Burski
Administrative Judge

